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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,066	04/26/2001	Michael D. Doyle	021117-000200US	9586

7590

07/06/2005

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EXAMINER

GYORFI, THOMAS A

ART UNIT

PAPER NUMBER

2135

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,066

Applicant(s)

DOYLE ET AL.

Examiner

Tom Gyorfi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claim 1 remains for examination. The correspondence filed 4/4/05 did not add, amend, or cancel any claims.

Response to Arguments

2. Applicant's arguments, see the correspondence filed 4/4/05, with respect to the rejection of claim 1 have been fully considered and are persuasive. The rejection of claim 1 under 35 USC 103 has been withdrawn.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/844790. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending application's disclosure

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supports all the limitations of claim 1 of the instant Application. Claim 1 of Application 09/844790 recites verbatim all the limitations of claim 1 of the instant Application with the exception of "configuring a second server to request a cross-certification for a second interval so that the first server is effectively requested to provide independent proof of the existence of the interval and its public key at a point in time witnessed by the first server." However, the disclosure of 09/844790 suggests that this limitation could be added (page 6, lines 12-19 and Figure 13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add this limitation, as it would render attacks against a single server fruitless (Ibid).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. Patent 4,309,569 issued to Merkle, Ralph C.
- U.S. Patent 5,022,080 issued to Durst et al.
- U.S. Patents 5,136,643, 5,373,561, and 5,781,629 issued to Haber et al.
- U.S. Patents 5,136,646 and 5,422,953 issued to Fischer, Addison M.
- H. Massias and J. Quisquater. *Time and cryptography*, 1997. Université catholique de Louvain, March 1997. TIMESEC Technical Report WP1.

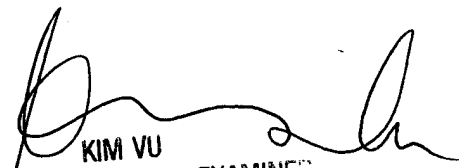
- Stuart Haber and W.-Scott Stornetta. How to Time-Stamp a Digital Document. Journal of Cryptology, 3(2):99--111, 1991
- Dave Bayer, Stuart Haber, and W. Scott Stornetta. Improving the efficiency and reliability of digital time-stamping. In Sequences'91: Methods in Communication, Security, and Computer Science, pages 329--334. SpringerVerlag, 1992.
- Shamir, A.: RSA for paranoids. CryptoBytes 1 (1995) 1--4.
<http://citeseer.ist.psu.edu/shamir95rsa.html> (pages 14-15)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Gyorfi whose telephone number is (571) 272-3849. The examiner can normally be reached on 8:00am - 4:30pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TAG
6/23/05


KIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100